

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT FOX, JR.,

Plaintiff,

No. 08-CV-14727-DT

vs.

Hon. Gerald E. Rosen

PENNY RODGERS, et al.,

Defendants.

_____ /

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION OF APRIL 28, 2009

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on May 29, 2009

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

This matter having come before the Court on the April 28, 2009 Report and Recommendation of United States Magistrate Mona K. Majzoub recommending that the Court grant, in part, and deny, in part, the Motion to Dismiss filed by several of the Defendants on March 31, 2009, for failure to exhaust administrative remedies; and no timely objections to the Magistrate Judge's Report and Recommendation having been filed; and the Court having reviewed the Magistrate Judge's Report and Recommendation, and the Court's file of this action and having concluded that, for the reasons stated in the Report and Recommendation, Defendants' Motion should be granted, in part, and Plaintiff's claims against Defendants McLain, Clark, Fairbanks, McClellan, Pramstaller and Richardson

should, accordingly, be dismissed, as recommended by the Magistrate Judge; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of April 28, 2009 [**Dkt. # 48**], be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendants' Motion to Dismiss [**Dkt. #37**] be, and hereby is, GRANTED, in part, and DENIED, in part. Defendants' Motion is granted with respect to Defendants McLain, Clark, Fairbanks, McClellan, Pramstaller, and Richardson, but denied with respect to Defendants Lovin and Wight. Accordingly,

IT IS FURTHER ORDERED that Plaintiff's claims against Defendants McLain, Clark, Fairbanks, McClellan, Pramstaller and Richardson are DISMISSED, without prejudice, for failure to exhaust administrative remedies.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: May 29, 2009

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: _____

Ronald W. Chapman, Joseph T. Froehlich; Anthony D. Pignotti, and

I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants:

Robert Fox, Jr., #208615, Parnell Correctional Facility, 1780 E. Parnell, Jackson, MI 49201 .

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager

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